

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 27, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU, MAUI

Request by the Division of Boating and Ocean Recreation (DOBOR) for Board Approval to Cancel Seven Revocable Permits (RP) Previously Issued for Use at State Small Boat Harbors (SBH) on Islands of Oahu and Maui:

Cancellation of Three RPs on the Island of Oahu

RP No. B-93-13 to Keehi Marine Inc., at Keehi Lagoon

RP No. B-93-24 to Royal Hawaiian Ocean Racing Club, at the Ala Wai SBH

RP B-96-74 to South Pacific Ocean Tours, Inc. at Haleiwa SBH

Cancellation of Four RPs on the Island of Maui

RP No. B-2002-1 to Braun Management Co., Ltd, at Maalaea SBH

RP No. B-99-04 to Excellence Charters, Inc., dba Apple Annie's Charters at Maalaea SBH

RP. No. BM-09-50 to Island Ice Company, LLC

RP No. B-00-03 to Hone Heke Corporation, Lahaina SBH

LEGAL REFERENCE:

Sections 171- and 55, Hawaii Revised Statutes, as amended.

LOCATION:

Reference EXHIBIT A

AREA:

Reference EXHIBIT A

TRUST LAND STATUS:

OAHU

Ala Wai SBH:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

Keehi SBH, Haleiwa SBH:
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

MAUI

Maalaea SBH, Lahaina SBH
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

See Exhibit A

REMARKS:

The Division of Boating and Ocean Recreation (DOBOR) is bringing forward for the Board's approval to cancel a total of seven RP previously issued for use at State Small Boat Harbors (SBH) on Islands of Oahu and Maui for reasons described below.

OAHU

There are three RP that DOBOR requests approval to cancel for the following reasons:

1. RP No. B-93-13 to Keehi Marine, Inc. (KMI), at Keehi Lagoon: The Permittee has requested that this RP be cancelled due to the loss of its marina as a result of the Tsunami of March 11, 2011. Keehi Marina lost most of its floating marina at that time. The RP was provided for expansion of mooring, adjacent to the KMI Marina lease area. The Permittee has been proactive and immediately hired a contractor and is presently in the process of cleaning up all destroyed docks once part of the marina under its lease. Keehi Marine will determine if it requires another RP at a future date.
2. RP No. B-93-24 to Royal Hawaiian Ocean Racing Club, at the Ala Wai SBH: The Permittee has notified DOBOR that it has no further use for this site and wishes to cancel the RP. The RP provided use for a storage container in support of the Clipper Cup and Transpac Yacht Races. The container was offered to DOBOR, and DOBOR has accepted the container and will continue to occupy the present site, when the RP is cancelled.
3. RP B-96-74 to South Pacific Ocean Tours, Inc. at Haleiwa SBH: DOBOR is requesting the cancellation of this RP, so it may convert this agreement to a Harbor issued Commercial Use Permit of a Ticket Booth. Commercial Use Permits are issued directly by the Harbor Master for specific uses. The Permittee has been notified that

DOBOR would approach the Board to request approval to allow for the conversion. The Permittee has expressed concerns of the conversion, and said that the fee increase would impact his business. This Revocable Permit was issued for use as a ticket booth in November 1996 in combination with Permittee's Commercial slip. In review of the use of this RP, DOBOR felt that it would be appropriate that a Commercial Use Permit for a Ticket Booth be issued under HARS §13-231-68, 232-43, and 234-35 then continue as a Revocable Permit. Presently the Permittee is paying \$40.00 a month under the Revocable Permit. Should South Pacific Ocean Tours, Inc. wish to utilize a Commercial Use Permit for Ticket Booth, the fee would be \$250.00 per month.

MAUI

There are four RP that DOBOR requests approval to cancel for the following reasons:

1. RP No. B-2002-1 to Braun Management Co., Ltd. (Braun), at Maalaea SBH: DOBOR is requesting cancellation of this permit to Braun as this site is part of the Maalaea Ferry Project and will be impacted by the project in the near future. Braun was provided an RP to occupy and use the premises for a non-exclusive parking area, landscaping, and as a driveway, since September of 2002. Braun has access on the lease portion of their property on the opposite side of its restaurant for parking and delivery. DOBOR discussed the cancellation and the closure of access to this site and mutually agree to cancel the permit.
2. RP No. B-99-04 to Excellence Charters, Inc., dba Apple Annie's Charters at Maalaea SBH: This permit granted for use of the premises for a waiting dock for passengers of the permittees commercial vessel adjacent the slip. DOBOR requests the RP be cancelled as the wharf of which the dock is supported is scheduled to be demolished and rebuilt in the near future. The Permittee has been notified of the future work and the request for cancellation.
3. RP No. BM-09-50 to Island Ice Company, LLC (Island Ice) at Maalaea SBH: The RP was provided to use the premises for a retail operation and an automated ice machine. The Permittee has been working closely with DOBOR and as noted in the RP the ice machine may require relocation due to Maalaea Ferry Project. DOBOR and the Permittee have mutually agreed to cancel the Revocable Permit as the Ice Machine needed to be removed from the present site so as to allow access and storage of project equipment.
4. RP No. B-00-03 to Hone Heke Corporation, at Lahaina SBH: DOBOR is requesting the cancellation of this RP, so it may convert this agreement to a harbor issued Commercial Use Permit of a Ticket Booth. The RP was issued in 2001 to the Permittee to occupy and use the premises for a Ticket Booth for Hone Heke Corporations passenger ferry. DOBOR notified Hone Heke that it would approach the Board to request approval to allow for the cancellation of the RP and notify the board of its

intent of the conversion. DOBOR has also discussed that it may be necessary to relocate the ticket booth from its present location up on the West edge of the wharf deck to the Southern edge of the wharf so as to better mitigate loading at the point directly astern of where the ferry normally loads and off loads. The Permittee has expressed concern of the conversion, and the relocation. DOBOR will work closely with the ferry operator to allow for seamless operation. DOBOR felt that it be appropriate that a Commercial Use Permit for a Ticket Booth be issued under HARS §13-231-68(b) rather than continue as a Revocable Permit under HRS 171-55 as previously issued. HARS 13-231-68 (b) provides specifically for the construction of Ticket Booths and HARS 13-234-35 (b) provides for the payment amount of \$250.00 per month. Presently the Permittee is paying \$75.00 under the Revocable Permit and under the Commercial Use Permit for Ticket Booth the Permittee fee would be the required fee of \$250.00

RECOMMENDATION:

That the Board approve the request by the Division of Boating and Ocean Recreation to cancel seven Revocable Permits (RP) previously issued for use at State Small Boat Harbors SBH on Islands of Oahu and Maui in a manner specified by law and as provided in each Revocable Permit

1. The cancellation of three RP on the Island of Oahu:
RP No. B-93-13 to Keehi Marine Inc., at Keehi Lagoon;
RP No. B-93-24 to Royal Hawaiian Ocean Racing Club, at the Ala Wai SBH;
RP B-96-74 to South Pacific Ocean Tours, Inc. at Haleiwa SBH
2. Cancellation of Four RP on the Island of Maui:
RP No. B-2002-1 to Braun Management Co., Ltd, at Maalaea SBH;
RP No. B-99-04 to Excellence Charters, Inc., dba Apple Annie's Charters at Maalaea SBH;
RP. No. BM-09-50 to Island Ice Company, LLC;
RP No. B-00-03 to Hone Heke Corporation, Lahaina SBH.
3. Cancellation of the Revocable Permits are to follow all the terms and conditions as provided and required within each permit;
4. Cancellation date to be effective immediately;
5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Authorize the Department of the Attorney general, the Department of Land and Natural resources, or their agents to collect all monies due the State of Hawaii under the terms of each Revocable Permit and to pursue all other rights and remedies as appropriate.

Cancel Seven Revocable Permits (RP) Previously
Issued for Use at State Small Boat Harbors (SBH)
on Islands of Oahu and Maui

May 27, 2011

Item J-2

Respectfully Submitted,



Edward R. Underwood
Administrator

Attachment: Exhibit A

APPROVED FOR SUBMITTAL:



William J. Aila, Jr.
Chairperson

PERMITEE/Location	PERMIT #	RP DATE	AREA (Sq Ft)	DCCA	USE	RENT	COMMENTS
<u>OAHU</u>							
Keehi Marine, Inc.	B-93-13	1993	37,960	Yes	Mooring Portion Expansion to Marina	\$ 1,590.52	Permittee Requests To Cancel Permit Mooring Dock Lost Due to Tsunami
Keehi Lagoon							
Adjacent Marina Dock							
Royal Hawaiian Ocean Racing (1)2-3-037:013	B-93-24	1993	160	Yes	Storage Container for Clipper Cup and Transpac Yacht Races	\$ 40.00	Permittee Requests to Cancel Permit After Transpac race In July
AWSBH							
Harbor Office/Tailer storage Area							
South Pacific Ocean Tours, Inc. (1) 6-6-01	B-96-74	1996	36	Yes	Ticket Booth for selling Tickets For Commercial Thrill Craft rental Buisness	\$ 40.00	DOBOR requests Cancellation of RP to Convert to Harbor Ticket Booth Permit HAR §13-231-68(b)(d) and §13-234-35(b)
Haleiwa SBH							
Adjacent Commercial Slip							

PERMITEE/Location	PERMIT #	RP DATE	AREA (Sq Ft)	DCCA	USE	RENT	COMMENTS
<u>MAUI</u>							
Braun Management Co., Ltd. (2) 3-6-01:034	B-2002-1	2002	2,661	Yes	Parking/Landscaping Delivery Access	\$ 391.00	DOBOR/Permittee Request to Cancel Due to Maalaea Ferry Project
Maalaea, SBH							
Makai Buzzs Rest.							
Excellence Charters, Inc.. (dba Apple Annies Charters) (2) 3-6-001:2	B-99-04	1999	192	Yes	Waiting Area Deck for Passengers of Commercial Slip	\$ 50.00	DOBOR Requests to Cancel Due to Demolish Wharf Construction Improvement Project
Maalaea SBH							
Adjacent Wharf/slip							
Hono Heke Corporation (2) 4-6-01:14	B-00-03	2000	48	Yes	Ticket Booth Passenger Ferry Operation	\$ 75.00	DOBOR requests Cancellation of RP Convert to Harbor Ticket Booth Permit
Lahaina SBH							
Main lahaina Wharf Deck							
Relocate to South side Load Dock							HAR §13-231-68(b)(d) and §13-234-35(b) Relocate Booth
Island Ice Company L.L. C. (2) 3-6-001	BM-09-50	2010	200	Yes	Retail Operation Automated Ice Machine	\$ 250.00 or 8% (greater of)	DOBOR/Permittee Req. to Cancel due to FerryConst. Project
Maalaea SBH							
West Harbor Entry							